

**PART 102—RULES OF ORIGIN**

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AUTHORITY: 7 U.S.C. 1854, 19 U.S.C. 66, 1202 (General Note 3(i) Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

SOURCE: T.D. 94–4, 59 FR 113, Jan. 3, 1994, unless otherwise noted.

**§ 102.0 Scope.**

With the exception of §§ 102.21 through 102.25, this part sets forth rules for determining the country of origin of imported goods for the purposes specified in paragraph 1 of Annex 311 of the North American Free Trade Agreement (“NAFTA”). These specific purposes are: country of origin marking; determining the rate of duty and staging category applicable to originating textile and apparel products as set out in Section 2 (Tariff Elimination) of Annex 300–B (Textile and Apparel Goods); and determining the rate of duty and staging category applicable to an originating good as set out in Annex 302.2 (Tariff Elimination). The rules for determining the country of origin of textile and apparel products set forth in § 102.21 apply for the foregoing purposes and for the other purposes stated in that section. Section 102.22 sets forth rules for determining whether textile and apparel products are considered products of Israel for purposes of the customs laws and the

administration of quantitative limitations. Sections 102.23 through 102.25 set forth certain procedural requirements relating to the importation of textile and apparel products.

[CBP Dec. 05–32; 70 FR 58013, Oct. 5, 2005]

**Subpart A—General****§ 102.1 Definitions.**

(a) *Advanced in value*. “Advanced in value” means an increase in the value of a good as a result of production with respect to that good, other than by means of those “minor processing” operations described in paragraphs (m)(5), (m)(6), and (m)(7) of this section.

(b) *Commingled*. “Commingled” means physically combined or mixed.

(c) *Direct physical identification*. “Direct physical identification” means identification by visual or other organoleptic examination.

(d) *Domestic material*. “Domestic material” means a material whose country of origin as determined under these rules is the same country as the country in which the good is produced.

(e) *Foreign material*. “Foreign material” means a material whose country of origin as determined under these rules is not the same country as the country in which the good is produced.

(f) *Fungible goods or fungible materials*. “Fungible goods or fungible materials” means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical.

(g) *A good wholly obtained or produced*. A good “wholly obtained or produced” in a country means:

(1) A mineral good extracted in that country;

(2) A vegetable or plant good harvested in that country;

(3) A live animal born and raised in that country;

(4) A good obtained from hunting, trapping or fishing in that country;

(5) A good (fish, shellfish and other marine life) taken from the sea by vessels registered or recorded with that country and flying its flag;

(6) A good produced on board factory ships from the goods referred to in paragraph (g)(5) of this section, provided such factory ships are registered

or recorded with that country and fly its flag;

(7) A good taken by that country or a person of that country from the seabed or beneath the seabed outside territorial waters, provided that country has rights to exploit such seabed;

(8) A good taken from outer space, provided they are obtained by that country or a person of that country;

(9) Waste and scrap derived from:

(i) Production in a country, or

(ii) Used goods collected in that country provided such goods are fit only for the recovery of raw materials; and

(10) A good produced in that country exclusively from goods referred to in paragraphs (g)(1) through (10) of this section or from their derivatives, at any stage of production.

(h) *Harmonized System*. “Harmonized System” means the Harmonized Commodity Description and Coding System, including its general rules of Interpretation, Section Notes and Chapter Notes, as adopted and implemented by the United States.

(i) *Improved in condition*. “Improved in condition” means the enhancement of the physical condition of a good as a result of production with respect to that good, other than by means of those “minor processing” operations described in paragraphs (m)(5), (m)(6), and (m)(7) of this section.

(j) *Incorporated*. “Incorporated” means physically incorporated into a good as a result of production with respect to that good.

(k) *Indirect materials*. “Indirect materials” means a good used in the production, testing or inspection of another good but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of that other good, including:

(1) Fuel and energy;

(2) Tools, dies and molds;

(3) Spare parts and materials used in the maintenance of equipment and buildings;

(4) Lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;

(5) Gloves, glasses, footwear, clothing, safety equipment and supplies;

(6) Equipment, devices, and supplies used for testing or inspecting the goods;

(7) Catalysts and solvents; and

(8) Any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

(l) *Material*. “Material” means a good that is incorporated into another good as a result of production with respect to that other good, and includes parts, ingredients, subassemblies, and components.

(m) *Minor processing*. “Minor processing” means the following:

(1) Mere dilution with water or another substance that does not materially alter the characteristics of the good;

(2) Cleaning, including removal of rust, grease, paint, or other coatings;

(3) Application of preservative or decorative coatings, including lubricants, protective encapsulation, preservative or decorative paint, or metallic coatings;

(4) Trimming, filing or cutting off small amounts of excess materials;

(5) Unloading, reloading or any other operation necessary to maintain the good in good condition;

(6) Putting up in measured doses, packing, repacking, packaging, repackaging;

(7) Testing, marking, sorting, or grading;

(8) Ornamental or finishing operations incidental to textile good production designed to enhance the marketing appeal or the ease of care of the product, such as dyeing and printing, embroidery and appliques, pleating, hemstitching, stone or acid washing, permanent pressing, or the attachment of accessories notions, findings and trimmings; or

(9) Repairs and alterations, washing, laundering, or sterilizing.

(n) *Production*. “Production” means growing, mining, harvesting, fishing, trapping, hunting, manufacturing, processing or assembling a good.

(o) *Simple assembly*. “Simple assembly” means the fitting together of five or fewer parts all of which are foreign

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(excluding fasteners such as screws, bolts, etc.) by bolting, gluing, soldering, sewing or by other means without more than minor processing.

(p) *Value*. “Value” means, with respect to § 102.13:

(1) In the case of a good, its customs value or transaction value within the meaning of the appendix to part 181 of this chapter; or

(2) In the case of a material, its customs value or value within the meaning of the appendix to part 181 of this chapter.

[T.D. 96–48, 61 FR 28955, June 6, 1996]

### Subpart B—Rules of Origin

#### § 102.11 General rules.

The following rules shall apply for purposes of determining the country of origin of imported goods other than textile and apparel products covered by § 102.21.

(a) The country of origin of a good is the country in which:

(1) The good is wholly obtained or produced;

(2) The good is produced exclusively from domestic materials; or

(3) Each foreign material incorporated in that good undergoes an applicable change in tariff classification set out in § 102.20 and satisfies any other applicable requirements of that section, and all other applicable requirements of these rules are satisfied.

(b) Except for a good that is specifically described in the Harmonized System as a set, or is classified as a set pursuant to General Rule of Interpretation 3, where the country of origin cannot be determined under paragraph (a) of this section:

(1) The country of origin of the good is the country or countries of origin of the single material that imparts the essential character to the good, or

(2) If the material that imparts the essential character to the good is fungible, has been commingled, and direct physical identification of the origin of the commingled material is not practical, the country or countries of origin may be determined on the basis of an inventory management method provided under the appendix to part 181 of this chapter.

(c) Where the country of origin cannot be determined under paragraph (a) or (b) of this section and the good is specifically described in the Harmonized System as a set or mixture, or classified as a set, mixture or composite good pursuant to General Rule of Interpretation 3, the country of origin of the good is the country or countries of origin of all materials that merit equal consideration for determining the essential character of the good.

(d) Where the country of origin of a good cannot be determined under paragraph (a), (b) or (c) of this section, the country of origin of the good shall be determined as follows:

(1) If the good was produced only as a result of minor processing, the country of origin of the good is the country or countries of origin of each material that merits equal consideration for determining the essential character of the good;

(2) If the good was produced by simple assembly and the assembled parts that merit equal consideration for determining the essential character of the good are from the same country, the country of origin of the good is the country of origin of those parts; or

(3) If the country of origin of the good cannot be determined under paragraph (d)(1) or (d)(2) of this section, the country of origin of the good is the last country in which the good underwent production.

[T.D. 96–48, 61 FR 28956, June 6, 1996]

#### § 102.12 Fungible goods.

When fungible goods of different countries of origin are commingled the country of origin of the goods:

(a) Is the countries of origin of those commingled goods; or

(b) If the good is fungible, has been commingled, and direct physical identification of the origin of the commingled good is not practical, the country or countries of origin may be determined on the basis of an inventory management method provided under the appendix to part 181 of the Customs Regulations.

#### § 102.13 De Minimis.

(a) Except as otherwise provided in paragraphs (b) and (c) of this section,